## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION CIVIL ACTION NO. 5:15-CV-065-RLV-DCK

HERSHEL JONES,	)	
	)	
Plaintiff,	)	
	)	
v.	)	MEMORANDUM AND
	)	RECOMMENDATON
	)	
CAROLYN W. COLVIN,	)	
<b>Acting Commissioner of Social Security</b>	)	
	)	
Defendant.	)	
	)	

THIS MATTER IS BEFORE THE COURT on "Plaintiff's "Motion For Summary Judgment" (Document No. 11) and "...Memorandum In Support..." (Document No. 12) filed November 9, 2015. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion, the record, and applicable authority, the undersigned will recommend that the motion be denied without prejudice.

The undersigned observes that "Plaintiff's Memorandum..." (Document No. 12) fails to comply with the Court's "Social Security Briefing Order" (3:13-mc-198-FDW, Document No. 1) linked to a Text-Only Order on the docket for this case on August 10, 2015. <u>See</u> (3:13-mc-198-FDW, Document No. 1). In particular, the "Social Security Briefing Order" provides specific instructions on the information to be provided, and how it is to be organized.

Based on the foregoing, the undersigned recommends that the instant motion be dismissed, and that Plaintiff be allowed additional time to file an appropriate Motion For Summary Judgment and a supporting Memorandum of Law.

FOR THE FOREGOING REASONS, the undersigned respectfully recommends that

"Plaintiff's "Motion For Summary Judgment" (Document No. 11) be **DENIED WITHOUT** 

PREJUDICE.

IT IS FURTHER RECOMMENDED that Plaintiff be allowed an extension of time until

November 20, 2015, to file an appropriate motion and supporting memorandum that comply with

the Court's "Social Security Briefing Order."

TIME FOR OBJECTIONS

The parties are hereby advised that pursuant to 28 U.S.C. § 636(b)(1)(C), and Rule 72 of

the Federal Rules of Civil Procedure, written objections to the proposed findings of fact,

conclusions of law, and recommendation contained herein may be filed within fourteen (14) days

of service of same. Responses to objections may be filed within fourteen (14) days after service

of the objections. Fed.R.Civ.P. 72(b)(2). Failure to file objections to this Memorandum and

Recommendation with the District Court constitutes a waiver of the right to de novo review by the

District Court. Diamond v. Colonial Life, 416 F.3d 310, 315-16 (4th Cir. 2005). Moreover, failure

to file timely objections will preclude the parties from raising such objections on appeal. Diamond,

416 F.3d at 316; Page v. Lee, 337 F.3d 411, 416 n.3 (4th Cir. 2003); Snyder v. Ridenhour, 889

F.2d 1363, 1365 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140, 147-48 (1985), reh'g denied, 474

U.S. 1111 (1986).

IT IS SO RECOMMENDED.

Signed: November 12, 2015

David C. Keesler

United States Magistrate Judge

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